



TRANSMITTED BY FACSIMILE

Beth D. Gudeman
Chief Executive Officer
CBA Research, Inc.
670 Perimeter Drive
Lexington, KY 40517

RE: (b) (4)
CBT-1 (b) (4) Capsule
MA #1

Dear Ms. Gudeman:

The Office of Prescription Drug Promotion (OPDP) of the U.S. Food and Drug Administration (FDA) has reviewed CBA Research, Inc.'s (CBA) company website (website) found at <http://www.cbapharma.com>¹ for the investigational new drug CBT-1[®] (b) (4) Capsule (CBT-1). The website focuses on CBT-1, an investigational new drug, and misleadingly promotes CBT-1 as safe and effective for the purposes for which it is being investigated in violation of the Federal Food, Drug, and Cosmetic Act (FD&C Act) and FDA implementing regulations. See 21 C.F.R. § 312.7(a). In addition, the website is false or misleading because it overstates the efficacy of CBT-1. See 21 U.S.C. § 352(a), (n).

Background

CBT-1 is an investigational new drug that does not have marketing authorization in the United States. According to the CBA website, CBT-1 is being investigated for use as an adjunct to chemotherapy in all cancer types with multidrug resistance (MDR). A new drug application (NDA) for CBT-1 was submitted to the FDA on (b) (4)

Promotion of an Investigational New Drug; False or Misleading Promotion

Making representations about the safety or effectiveness of an investigational new drug is addressed by FDA regulations at 21 C.F.R. § 312.7(a), which states, "A sponsor or investigator, or any person acting on behalf of a sponsor or investigator, shall not represent in a promotional context that an investigational new drug is safe or effective for the purposes for which it is under investigation or otherwise promote the drug. This provision is not intended to restrict the full exchange of scientific information concerning the drug, including dissemination of scientific findings in scientific or lay media. Rather, its intent is to restrict promotional claims of safety or effectiveness of the drug for a use for which it is under

¹ Last accessed April 25, 2013.

investigation and to preclude commercialization of the drug before it is approved for commercial distribution.”

The website contains claims that promote CBT-1 as safe and/or effective for the purposes for which it is being investigated.

The “CBT-1[®] Highlights” webpage contains claims such as the following (emphasis original):

- “ADMINISTERED ORALLY Oral delivery of CBT-1[®] prior to and during the administration of chemotherapy, achieves the required therapeutic concentration necessary to reverse multidrug resistance in the clinical setting.”
- “NO SIGNIFICANT OR LASTING TOXIC SIDE EFFECTS CBT-1[®] demonstrated no significant or lasting side effects in the clinical setting, and had a very favorable adverse event profile.”
- “MULTIPLE CANCERS Eight Phase I and II clinical trials, with patients that had failed conventional chemotherapy treatments, showed efficacy of CBT-1[®] in multiple cancers. Likewise, the targeted mechanism of action multidrug resistance of CBT-1[®] is found in the vast majority of all late stage human cancer types.”
- “HIGH PATIENT BENEFIT IN PHASE I AND PHASE II CLINICAL TRIALS CBT-1[®] has demonstrated in Phase I and II clinical trials a high rate of patient benefit.”

In addition, the website contains a downloadable presentation on the “CBT-1[®]” and “CBT-1[®] Clinical Trials” webpages, which contains claims such as the following (emphasis original):

- “**CBT-1[®]** A Novel Multidrug Resistant Modulator for Cancer Chemotherapy” (Slide 1)
- “**CBT-1[®] Safety and Efficacy Profile**

Preclinical and Clinical research has consistently demonstrated the potential for CBT-1[®] to be safe and effective.

The drug is safe, well tolerated, lacks harmful pharmacokinetic interactions when combined with chemotherapeutic agents, has specificity for P-gp and MDR-1, is stable, orally available, and has produced clinically objective responses in heavily pre-treated and/or late cancers.” (Slide 16)

- “**Advantages of CBT-1[®]**
 - Reverses drug resistance in multiple cancer types.
 - Strong safety and tolerability profile: side effects are manageable and non-life threatening.

- o In advanced relapsed cancers clinical trials demonstrate a meaningful response rate.
- o Oral administration prior to chemotherapy achieves required concentration to reverse drug resistance.
- o Does not alter the pharmacokinetic profile of Doxorubicin and Paclitaxel (two MDR substrates).
- o Enhances most common chemotherapy agents in current oncology protocols.” (Slide 17)

The above referenced claims make numerous positive and definitive conclusions about CBT-1, such as its ability to reverse multi-drug resistance in cancer cells and to improve patient outcomes, while reducing the toxic side effects of chemotherapy and decreasing treatment failures. Thus, the claims suggest that CBT-1, an investigational new drug, is safe and/or effective for use as an adjunct to chemotherapy for cancers which have multi-drug resistant characteristics, when it has not been approved for this or any use.

Since CBT-1 is an investigational new drug, the product’s indication(s), warnings, precautions, adverse reactions, and dosage and administration have not been established and are unknown at this time. CBA’s promotion of CBT-1 as safe and effective for the purposes for which it is under investigation, by making representations such as those noted above, is in violation of 21 C.F.R. § 312.7(a). We note that the slide titled, “**CBT-1® Safety and Efficacy Profile**” (emphasis original) states that research has consistently demonstrated the *potential* for CBT-1 to be safe and effective; however, this is immediately followed by *conclusive* language that CBT-1 is safe, well tolerated, lacks harmful pharmacokinetic interactions, has specificity for certain receptors, is stable, orally available, and has produced clinically objective responses in certain cancers. Minimal disclaimers that state that an NDA for CBT-1 has been submitted to the FDA and is currently under review are not sufficient to mitigate the overwhelming misleading impressions conveyed by the claims on CBA’s website, such as those noted above, that CBT-1 is safe and effective.

The website is also false or misleading insofar as it does not include mention of the (b) (4), in which CBT-1 (b) (4)

Your website omits any mention of this (b) (4), while stating only that “a high rate of patient benefit” has been “demonstrated in Phase I and Phase II clinical trials.” As a result, the website overstates the effectiveness of this drug, which has not gained FDA approval, in violation of 21 U.S.C. § 352(a), (n).

Conclusion and Requested Action

For the reasons discussed above, the website misbrands CBT-1 in violation of the FD&C Act and FDA implementing regulations. See 21 U.S.C. § 352(a), (n); 21 C.F.R. § 312.7(a). These statements are concerning from a public health perspective because they make

promotional claims about the safety and efficacy of an investigational new drug that has not been approved by the FDA.

OPDP requests that CBA immediately cease the dissemination of violative promotional materials for CBT-1 such as those described above. Please submit a written response to this letter on or before May 9, 2013, stating whether you intend to comply with this request, listing all promotional materials for CBT-1 that contain violations such as those described above, and explaining your plan for discontinuing use of such violative materials.

Please direct your response to the undersigned at the **Food and Drug Administration, Center for Drug Evaluation and Research, Office of Prescription Drug Promotion, 5901-B Ammendale Road, Beltsville, Maryland 20705-1266** or by facsimile at (301) 847-8444. To ensure timely delivery of your submissions, please use the full address above and include a prominent directional notation (e.g., a sticker) to indicate that the submission is intended for OPDP. Please refer to MA #1 in addition to the NDA number in all future correspondence relating to this particular matter. OPDP reminds you that only written communications are considered official.

The violations discussed in this letter do not necessarily constitute an exhaustive list. It is your responsibility to ensure that your promotional materials for the investigational new drug CBT-1 comply with each applicable requirement of the FD&C Act and FDA implementing regulations.

Sincerely,

{See appended electronic signature page}

Michelle Safarik, MSPAS, PA-C
Regulatory Review Officer
Office of Prescription Drug Promotion

{See appended electronic signature page}

Amy Toscano, PharmD, RAC, CPA
Team Leader
Office of Prescription Drug Promotion

This is a representation of an electronic record that was signed electronically and this page is the manifestation of the electronic signature.

/s/

MICHELLE L SAFARIK
04/25/2013

AMY TOSCANO
04/25/2013